
HOUSE BILL 2265

State of Washington 57th Legislature 2001 First Special Session

By Representatives Ogden and Talcott

Read first time . Referred to Committee on .

1 AN ACT Relating to an open private choice primary; amending RCW
2 29.01.090, 29.04.180, 29.27.020, 29.27.030, 29.30.005, 29.30.025,
3 29.30.095, 29.30.101, 29.33.320, 29.36.045, 29.42.010, 29.42.050,
4 29.42.070, and 42.17.020; adding a new section to chapter 29.07 RCW;
5 adding new sections to chapter 29.30 RCW; adding new sections to
6 chapter 29.15 RCW; adding a new section to chapter 29.42 RCW; adding a
7 new section to chapter 29.81A RCW; adding a new chapter to Title 29
8 RCW; creating new sections; repealing RCW 29.18.010, 29.18.120,
9 29.18.150, 29.18.160, 29.18.200, and 29.30.040; providing an expiration
10 date; and declaring an emergency.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
13 create a primary for all partisan elected offices, except for president
14 and vice president, precinct committee officer, and offices exempted
15 from the primary under RCW 29.15.150, that:

16 (1) Allows each voter, including those who choose to be undeclared,
17 to participate;

18 (2) Preserves the privacy of each voter's party affiliation, if
19 any;

- 1 (3) Rejects mandatory voter registration by political party;
2 (4) Protects ballot access for minor political party and
3 independent candidates;
4 (5) Maintains a candidate's right to self-identify with any major
5 political party; and
6 (6) Upholds a political party's First Amendment right of
7 association.

8 **Sec. 2.** RCW 29.01.090 and 1977 ex.s. c 329 s 9 are each amended to
9 read as follows:

10 "Major political party" means a political party of which at least
11 one nominee for president, vice president, United States senator, or a
12 statewide office received at least five percent of the total vote cast
13 at the last preceding state general election in an even-numbered
14 year(~~(:— PROVIDED, That any political party qualifying as a major~~
15 ~~political party under the previous subsection (2) or subsection (3) of~~
16 ~~this section prior to its 1977 amendment shall retain such status until~~
17 ~~after the next state general election following June 30, 1977)).~~
18 However, a political party of which no nominee received at least ten
19 percent of the total vote cast may forgo its status as a major
20 political party by filing with the secretary of state an appropriate
21 party rule within sixty days of attaining major party status under this
22 section or thirty days of the effective date of this act, whichever is
23 later.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 29.07 RCW
25 to read as follows:

26 Under no circumstances may an individual be required to affiliate
27 with, join, adhere to, express faith in, or declare a preference for,
28 a political party or organization upon registering to vote.

29 NEW SECTION. **Sec. 4.** Candidates for all partisan elected offices,
30 except for president and vice president, precinct committee officer,
31 and offices exempted from the primary under RCW 29.15.150, will be
32 nominated at primaries held under this chapter.

33 NEW SECTION. **Sec. 5.** So far as applicable, the provisions of this
34 title relating to conducting general elections govern the conduct of
35 primaries.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 29.30 RCW
2 to read as follows:

3 Each primary ballot that includes one or more partisan offices must
4 include a party identification checkoff box that allows a voter to
5 select the party with which the voter chooses to affiliate from a list
6 of the major political parties, or the option to indicate that the
7 voter chooses to be undeclared. If a voter makes no selection or
8 selects more than one option, then the voter is presumed to have
9 selected the option indicating that the voter chooses to be undeclared.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 29.30 RCW
11 to read as follows:

12 The party identification checkoff box required under section 6 of
13 this act must appear on the primary ballot before the names of
14 candidates and ballot measures. Clear and concise instructions to the
15 voter must be prominently displayed immediately before the list of
16 major political parties, and must include:

17 (1) A question asking the voter to indicate the major political
18 party, if any, with which the voter chooses to affiliate;

19 (2) A statement indicating that votes cast for a candidate who
20 indicated a major political party designation when filing a declaration
21 of candidacy by a voter who chooses to affiliate with a different major
22 political party will not be tabulated or reported;

23 (3) An explanation, for each major political party, of whether or
24 not votes cast by a voter who chooses to be undeclared will be used to
25 determine the major political party's nominees;

26 (4) A statement that votes cast for minor party candidates or
27 independent candidates by voters who choose to affiliate with a major
28 political party will not be tabulated or reported; and

29 (5) A statement that the party identification option will not
30 affect votes cast for candidates for nonpartisan offices or for or
31 against ballot measures.

32 NEW SECTION. **Sec. 8.** No record may be created or maintained by a
33 state or local governmental agency or a political organization that
34 identifies a voter with the information provided on the voter's ballot,
35 including the choice that the voter makes regarding political party
36 affiliation.

1 NEW SECTION. **Sec. 9.** (1) A major party's nominees for partisan
2 office will be determined under subsection (2) of this section. If a
3 court of competent jurisdiction finds subsection (2) of this section to
4 be unconstitutional, then a major party's nominees for partisan office
5 will be determined as provided in subsection (3) of this section.

6 (2) A major party's nominee for a partisan office must be the
7 candidate affiliated with that party who receives a plurality of the
8 votes cast for that office at the primary by aggregating votes cast by
9 voters who choose to affiliate with that party and votes cast by voters
10 who choose to be undeclared.

11 (3) This subsection applies only if a court of competent
12 jurisdiction finds subsection (2) of this section to be
13 unconstitutional.

14 (a) A major political party may choose, by rule adopted under
15 chapter 29.42 RCW, to allow voters who choose to be undeclared to cast
16 votes that will be used to determine the major political party's
17 nominees. The rule may only be made on a statewide basis and with
18 respect to all of the votes cast by undeclared voters rather than with
19 respect to votes cast in specific districts, in specific races, or for
20 specific candidates.

21 (b) A major political party that has adopted a rule under (a) of
22 this subsection may repeal that rule at any time. However, the effect
23 of the repeal is subject to the time requirements of (f) of this
24 subsection.

25 (c) A major political party shall provide the secretary of state
26 with written notification of an action taken under this section before
27 the end of the first business day that immediately follows the day
28 during which the action is taken.

29 (d) If a major political party adopts an appropriate rule under (a)
30 of this subsection, then the major political party's nominee will be
31 the candidate who receives a plurality of votes from the aggregation of
32 votes cast by voters who choose to affiliate with that major political
33 party and votes cast by voters who choose to be undeclared.

34 (e) Unless a major political party adopts a rule under (a) of this
35 subsection, or if a rule so adopted is repealed under (b) of this
36 subsection, then the major political party's nominee will be the
37 candidate who receives a plurality of votes cast by voters who choose
38 to affiliate with that major political party.

1 (f) The adoption of a rule under (a) of this subsection or the
2 repeal of the rule under (b) of this subsection must occur on or before
3 March 1st in order to be in effect at any primary conducted between
4 September 1st of the same year and August 30th of the following year.
5 However, a major political party may adopt a rule under (a) of this
6 subsection no later than thirty days after the effective date of this
7 act that becomes effective at the primary conducted in September of
8 2001.

9 (g) The decision by a major political party to accept votes cast by
10 voters who choose to be undeclared does not affect the rights of any
11 other major political party.

12 NEW SECTION. **Sec. 10.** If section 9(3) of this act is effective,
13 then for each major political party, prominent notification regarding
14 whether or not the major political party will allow voters who choose
15 to be undeclared to participate in the major political party's
16 nomination process must be made, at the very least, in:

17 (1) Any primary voters' pamphlet prepared by the secretary of state
18 or a local government;

19 (2) Instructions that accompany any ballot sent by a county auditor
20 to an absentee voter;

21 (3) Any notice of primary published in compliance with RCW
22 29.27.030;

23 (4) A sample ballot prepared by a county auditor under RCW
24 29.30.060;

25 (5) The content of the web site of the office of the secretary of
26 state; and

27 (6) The content of each county auditors' web site that is in
28 existence.

29 NEW SECTION. **Sec. 11.** Votes cast by a voter who chooses to
30 affiliate with a major political party for a candidate who indicated a
31 different major political party designation when filing a declaration
32 of candidacy, or for a minor party candidate or independent candidate,
33 may not be tabulated or reported. However, votes cast by that voter
34 for candidates for other offices are not affected in any way.

35 NEW SECTION. **Sec. 12.** (1) All votes cast for a candidate who
36 indicated a major political party designation when filing a declaration

1 of candidacy by voters who choose to affiliate with that major
2 political party must be tabulated and reported separately from any
3 other votes cast for that candidate.

4 (2) All votes cast for a candidate who indicated a major political
5 party designation when filing a declaration of candidacy by voters who
6 choose to be undeclared must be tabulated and reported separately from
7 any other votes cast for that candidate.

8 NEW SECTION. **Sec. 13.** The secretary of state as chief election
9 officer shall adopt rules under chapter 34.05 RCW to facilitate the
10 operation, accomplishment, and purpose of this chapter.

11 **Sec. 14.** RCW 29.04.180 and 1999 c 157 s 1 are each amended to read
12 as follows:

13 Any person who desires to be a write-in candidate and have such
14 votes counted at a primary or election may, if the jurisdiction of the
15 office sought is entirely within one county, file a declaration of
16 candidacy with the county auditor not later than the day before the
17 primary or election. If the jurisdiction of the office sought
18 encompasses more than one county the declaration of candidacy shall be
19 filed with the secretary of state not later than the day before the
20 primary or election. Declarations of candidacy for write-in candidates
21 must be accompanied by a filing fee in the same manner as required of
22 other candidates filing for the office as provided in RCW 29.15.050.

23 Votes cast for write-in candidates who have filed such declarations
24 of candidacy and write-in votes for persons appointed by political
25 parties (~~(pursuant to RCW 29.18.160)~~) under section 16 of this act need
26 only specify the name of the candidate in the appropriate location on
27 the ballot in order to be counted. Write-in votes cast for any other
28 candidate, in order to be counted, must designate the office sought and
29 position number or political party, if applicable. In order for write-
30 in votes to be valid in jurisdictions employing optical-scan mark sense
31 ballot systems the voter must complete the proper mark next to the
32 write-in line for that office.

33 No person may file as a write-in candidate where:

34 (1) At a general election, the person attempting to file either
35 filed as a write-in candidate for the same office at the preceding
36 primary or the person's name appeared on the ballot for the same office
37 at the preceding primary;

1 (2) The person attempting to file as a write-in candidate has
2 already filed a valid write-in declaration for that primary or
3 election, unless one or the other of the two filings is for the office
4 of precinct committeeperson;

5 (3) The name of the person attempting to file already appears on
6 the ballot as a candidate for another office, unless one of the two
7 offices for which he or she is a candidate is precinct committeeperson.

8 The declaration of candidacy shall be similar to that required by
9 RCW 29.15.010. No write-in candidate filing under RCW 29.04.180 may be
10 included in any voter's pamphlet produced under chapter ((29.80)) 29.81
11 RCW unless that candidate qualifies to have his or her name printed on
12 the general election ballot. The legislative authority of any
13 jurisdiction producing a local voter's pamphlet under chapter 29.81A
14 RCW may provide, by ordinance, for the inclusion of write-in candidates
15 in such pamphlets.

16 NEW SECTION. Sec. 15. A new section is added to chapter 29.15 RCW
17 to read as follows:

18 If a place on the ticket of a major political party is vacant
19 because no person has filed for nomination as the candidate of that
20 major political party after the last day allowed for candidates to
21 withdraw under RCW 29.15.120, and if the vacancy is for a state or
22 county office to be voted on solely by the electors of a single county,
23 the county central committee of the major political party may select
24 and certify a candidate to fill the vacancy. If the vacancy is for any
25 other office the state central committee of the major political party
26 may select and certify a candidate to fill the vacancy. The
27 certificate must set forth the cause of the vacancy, the name of the
28 person nominated, the office for which nominated, and other pertinent
29 information required in an ordinary certificate of nomination and be
30 filed in the proper office no later than the first Friday after the
31 last day allowed for candidates to withdraw, together with the
32 candidate's fee applicable to that office and a declaration of
33 candidacy.

34 NEW SECTION. Sec. 16. A new section is added to chapter 29.15 RCW
35 to read as follows:

36 A vacancy caused by the death or disqualification of a candidate or
37 nominee of a major or minor political party may be filled at any time

1 up to and including the day before the election for that position. For
2 state partisan offices in a political subdivision voted on solely by
3 electors of a single county, the county central committee in the case
4 of a major political party or the state central committee or comparable
5 governing body in the case of a minor political party shall appoint a
6 person to fill the vacancy. For other partisan offices, including
7 federal or statewide offices, the state central committee or comparable
8 governing body of the appropriate political party shall appoint a
9 person to fill the vacancy.

10 If the vacancy occurs no later than the sixth Tuesday before the
11 primary or general election concerned and the ballots have been
12 printed, the appropriate election officers shall correct the ballots.
13 In making the correction, it is not necessary to reprint complete
14 ballots if any other less expensive technique can be used and the
15 resulting correction is reasonably clear.

16 If the vacancy occurs after the sixth Tuesday before the primary or
17 general election and time does not exist in which to correct ballots
18 (including absentee ballots), either in total or in part, then the
19 votes cast or recorded for the person who has died or become
20 disqualified must be counted for the person who has been named to fill
21 the vacancy.

22 When the secretary of state is the person with whom the appointment
23 by the major or minor political party is filed, the secretary of state
24 shall, in certifying candidates or nominations to the various county
25 officers insert the name of the person appointed to fill a vacancy.

26 If the secretary of state has already sent forth the certificate
27 when the appointment to fill a vacancy is filed, the secretary of state
28 shall immediately certify to the county auditors of the proper counties
29 the name and place of residence of the person appointed to fill a
30 vacancy, the office for which the person is a candidate or nominee, the
31 party represented, and all other pertinent facts pertaining to the
32 vacancy.

33 **Sec. 17.** RCW 29.27.020 and 1990 c 59 s 8 are each amended to read
34 as follows:

35 On or before the day following the last day for political parties
36 to fill vacancies in the ticket as provided by ((RCW 29.18.150))
37 section 15 of this act, the secretary of state shall certify to each
38 county auditor a list of the candidates who have filed declarations of

1 candidacy in his or her office for the primary. For each office, the
2 certificate shall include the name of each candidate, his or her
3 address, and his or her party designation, if any.

4 **Sec. 18.** RCW 29.27.030 and 1965 c 9 s 29.27.030 are each amended
5 to read as follows:

6 Not more than ten nor less than three days prior to the primary
7 election the county auditor shall publish notice of such primary in one
8 or more newspapers of general circulation within the county. ~~((Said))~~
9 The notice shall contain the proper party designations, the names and
10 addresses of all persons who have filed a declaration of candidacy to
11 be voted upon at that primary election, the notification that is
12 required for each major political party under section 10 of this act,
13 the hours during which the polls will be open, and that the election
14 will be held in the regular polling place in each precinct, giving the
15 address of each polling place~~((:—PROVIDED, That))~~. The names of all
16 candidates for nonpartisan offices shall be published separately with
17 designation of the offices for which they are candidates but without
18 party designation. This shall be the only notice required for the
19 holding of any primary election.

20 **Sec. 19.** RCW 29.30.005 and 1990 c 59 s 93 are each amended to read
21 as follows:

22 Except for the candidates for the positions of president and vice
23 president or for ~~((a partisan or nonpartisan))~~ an office for which no
24 primary is required, the names of all candidates who have filed for
25 ~~((nomination under chapter 29.18 RCW and those independent candidates~~
26 ~~and candidates of minor political parties who have been nominated under~~
27 ~~chapter 29.24 RCW shall))~~ office under chapter 29.15 RCW must appear on
28 the appropriate ballots at the primary throughout the jurisdiction in
29 which they are to be nominated.

30 **Sec. 20.** RCW 29.30.025 and 1990 c 59 s 80 are each amended to read
31 as follows:

32 After the close of business on the last day for candidates to file
33 for office, the filing officer shall, from among those filings made in
34 person and by mail, determine by lot the order in which the names of
35 those candidates will appear on all primary, sample, and absentee
36 ballots. ~~((In the case of candidates for city, town, and district~~

1 office, this procedure shall also determine the order for candidate
2 names on the official primary ballot used at the polling place.)) The
3 determination shall be done publicly and may be witnessed by the media
4 and by any candidate. If no primary is required for any nonpartisan
5 office under RCW 29.15.150 or 29.21.015, the names shall appear on the
6 general election ballot in the order determined by lot.

7 **Sec. 21.** RCW 29.30.095 and 1990 c 59 s 96 are each amended to read
8 as follows:

9 (1) The name of a candidate for a partisan office for which a
10 primary was conducted shall not be printed on the ballot for that
11 office at the subsequent general election unless the candidate receives
12 a number of votes equal to at least one percent of the total number
13 cast for all candidates for that position sought and a plurality of the
14 votes cast for the candidates of his or her party for that office at
15 the preceding primary.

16 (2) Major party nominees must be selected under section 9 of this
17 act.

18 **Sec. 22.** RCW 29.30.101 and 1999 c 298 s 11 are each amended to
19 read as follows:

20 The names of the persons certified as nominees by the secretary of
21 state or the county canvassing board shall be printed on the ballot at
22 the ensuing election.

23 No name of any candidate whose nomination at a primary is required
24 by law shall be placed upon the ballot at a general or special election
25 unless it appears upon the certificate of either (1) the secretary of
26 state, or (2) the county canvassing board, or (3) a minor political
27 party convention or the state or county central committee of a major
28 political party to fill a vacancy on its ticket under ((RCW 29.18.160))
29 section 16 of this act.

30 Excluding the office of precinct committee officer or a temporary
31 elected position such as a charter review board member or freeholder,
32 a candidate's name shall not appear more than once upon a ballot for a
33 position regularly nominated or elected at the same election.

34 **Sec. 23.** RCW 29.33.320 and 1990 c 59 s 28 are each amended to read
35 as follows:

1 The secretary of state shall not approve a vote tallying system
2 unless it:

3 (1) Correctly counts votes on ballots on which the proper number of
4 votes have been marked for any office or issue;

5 (2) Ignores votes marked for any office or issue where more than
6 the allowable number of votes have been marked, but correctly counts
7 the properly voted portions of the ballot;

8 (3) Accumulates a count of the specific number of ballots tallied
9 for each precinct, total votes by candidate for each office, and total
10 votes for and against each issue of the ballot in that precinct;

11 (4) ~~((Accommodates rotation of candidates' names on the ballot
12 under RCW 29.30.040;~~

13 ~~(5))~~ Produces precinct and cumulative totals in printed form; and

14 ~~((6))~~ (5) Except for functions or capabilities unique to this
15 state, has been tested, certified, and used in at least one other state
16 or election jurisdiction.

17 **Sec. 24.** RCW 29.36.045 and 2001 c 241 s 8 are each amended to read
18 as follows:

19 The county auditor shall send each absentee voter a ballot, a
20 security envelope in which to seal the ballot after voting, a larger
21 envelope in which to return the security envelope, and instructions on
22 how to mark the ballot and how to return it to the county auditor. The
23 instructions that accompany absentee ballots for primaries must include
24 the notification that is required for each major political party under
25 section 10 of this act. The larger return envelope must contain a
26 declaration by the absentee voter reciting his or her qualifications
27 and stating that he or she has not voted in any other jurisdiction at
28 this election, together with a summary of the penalties for any
29 violation of any of the provisions of this chapter. The return
30 envelope must provide space for the voter to indicate the date on which
31 the ballot was voted and for the voter to sign the oath. A summary of
32 the applicable penalty provisions of this chapter must be printed on
33 the return envelope immediately adjacent to the space for the voter's
34 signature. The signature of the voter on the return envelope must
35 affirm and attest to the statements regarding the qualifications of
36 that voter and to the validity of the ballot. For out-of-state voters,
37 overseas voters, and service voters, the signed declaration on the
38 return envelope constitutes the equivalent of a voter registration for

1 the election or primary for which the ballot has been issued. The
2 voter must be instructed to either return the ballot to the county
3 auditor by whom it was issued or attach sufficient first class postage,
4 if applicable, and mail the ballot to the appropriate county auditor no
5 later than the day of the election or primary for which the ballot was
6 issued.

7 If the county auditor chooses to forward absentee ballots, he or
8 she must include with the ballot a clear explanation of the
9 qualifications necessary to vote in that election and must also advise
10 a voter with questions about his or her eligibility to contact the
11 county auditor. This explanation may be provided on the ballot
12 envelope, on an enclosed insert, or printed directly on the ballot
13 itself. If the information is not included, the envelope must clearly
14 indicate that the ballot is not to be forwarded and that return postage
15 is guaranteed.

16 **Sec. 25.** RCW 29.42.010 and 1977 ex.s. c 329 s 16 are each amended
17 to read as follows:

18 Each political party organization (~~shall have the power to~~) may:

- 19 (1) Make its own rules and regulations;
- 20 (2) Call conventions;
- 21 (3) Elect delegates to conventions, state and national;
- 22 (4) Fill vacancies on the ticket;
- 23 (5) Provide for the nomination of presidential electors; and
- 24 (6) Perform all functions inherent in such an organization(~~(+~~
25 ~~PROVIDED, That~~)). However, only major political parties (~~shall have~~
26 ~~the power to~~) may designate candidates to appear on the state primary
27 election ballot as provided in (~~RCW 29.18.150 as now or hereafter~~
28 ~~amended~~) section 15 of this act.

29 **Sec. 26.** RCW 29.42.050 and 1991 c 363 s 34 are each amended to
30 read as follows:

31 The statutory requirements for filing as a candidate at the
32 primaries shall apply to candidates for precinct committee officer
33 except that the filing period for this office alone shall be extended
34 to and include the Friday immediately following the last day for
35 political parties to fill vacancies in the ticket as provided by (~~RCW~~
36 ~~29.18.150~~) section 15 of this act, and the office shall not be voted
37 upon at the primaries, but the names of all candidates must appear

1 under the proper party and office designations on the ballot for the
2 general November election for each even-numbered year and the one
3 receiving the highest number of votes shall be declared elected:
4 PROVIDED, That to be declared elected, a candidate must receive at
5 least ten percent of the number of votes cast for the candidate of the
6 candidate's party receiving the greatest number of votes in the
7 precinct. Any person elected to the office of precinct committee
8 officer who has not filed a declaration of candidacy shall pay the fee
9 of one dollar to the county auditor for a certificate of election. The
10 term of office of precinct committee officer shall be for two years,
11 commencing upon completion of the official canvass of votes by the
12 county canvassing board of election returns. Should any vacancy occur
13 in this office by reason of death, resignation, or disqualification of
14 the incumbent, or because of failure to elect, the respective county
15 chair of the county central committee shall be empowered to fill such
16 vacancy by appointment: PROVIDED, HOWEVER, That in legislative
17 districts having a majority of its precincts in a county with a
18 population of one million or more, such appointment shall be made only
19 upon the recommendation of the legislative district chair: PROVIDED,
20 That the person so appointed shall have the same qualifications as
21 candidates when filing for election to such office for such precinct:
22 PROVIDED FURTHER, That when a vacancy in the office of precinct
23 committee officer exists because of failure to elect at a state general
24 election, such vacancy shall not be filled until after the organization
25 meeting of the county central committee and the new county chair
26 selected as provided by RCW 29.42.030.

27 **Sec. 27.** RCW 29.42.070 and 1991 c 363 s 35 are each amended to
28 read as follows:

29 Within forty-five days after the statewide general election in
30 even-numbered years, (~~or within thirty days following July 30, 1967,~~
31 ~~for the biennium ending with the 1968 general elections,~~) the county
32 chair of each major political party shall call separate meetings of all
33 elected precinct committee officers in each legislative district ((a
34 majority of the precincts of which are within a county with a
35 population of one million or more)) for the purpose of electing a
36 legislative district chair in such district. The district chair shall
37 hold office until the next legislative district reorganizational
38 meeting two years later, or until a successor is elected.

1 The legislative district chair can only be removed by the majority
2 vote of the elected precinct committee officers in the chair's
3 district.

4 NEW SECTION. **Sec. 28.** A new section is added to chapter 29.42 RCW
5 to read as follows:

6 (1) This section applies if section 9(3) of this act becomes
7 effective.

8 (2) The legislature finds that Washington state citizens have a
9 fundamental interest in having those state officials and legislators,
10 who are elected to office as members of a major political party,
11 participate in their party's decision whether to allow votes cast by
12 voters who choose to be undeclared be used in part to determine the
13 party's nominees for partisan offices. State officials and legislators
14 who are elected to public office as members of a major political party
15 are the core of their parties. They are the persons voters consider
16 most closely associated with their party. A compelling state interest
17 exists in having these state officials and legislators actually
18 participate in making the decision whether votes by undeclared voters
19 should be used in part to determine the party's nominees. This
20 decision has both private associational aspects as well as fundamental
21 public policy aspects. Crossover voting between persons associated
22 with different major political parties would not be allowed under this
23 proposal.

24 (3) The body of a major political party empowered to adopt or
25 repeal a rule under section 9 of this act, establishing whether votes
26 cast by voters who are undeclared are used to determine the nominees of
27 that party, must be composed of only the following persons: (a) The
28 members of the state central committee specified in RCW 29.42.020; (b)
29 each state official of the executive department, other than the
30 superintendent of public instruction, who indicated that major party
31 designation when filing a declaration of candidacy for election to his
32 or her current term of office; and (c) each state legislator who
33 indicated that major party designation when filing a declaration of
34 candidacy for election to his or her current term of office.

35 A meeting of this body must be held no later than fifteen days
36 before the date under section 9(3)(f) of this act by which a rule must
37 be adopted or repealed to be effective that year, which for 2001 must
38 be no later than fifteen days after the effective date of this act.

1 NEW SECTION. **Sec. 29.** A new section is added to chapter 29.81A
2 RCW to read as follows:

3 If the legislative authority of a county or first-class or code
4 city provides for the inclusion in the local voters' pamphlet of
5 candidates for partisan office, the pamphlet must prominently include
6 the notification that is required for each major political party under
7 section 10 of this act.

8 **Sec. 30.** RCW 42.17.020 and 1995 c 397 s 1 are each amended to read
9 as follows:

10 (1) "Agency" includes all state agencies and all local agencies.
11 "State agency" includes every state office, department, division,
12 bureau, board, commission, or other state agency. "Local agency"
13 includes every county, city, town, municipal corporation, quasi-
14 municipal corporation, or special purpose district, or any office,
15 department, division, bureau, board, commission, or agency thereof, or
16 other local public agency.

17 (2) "Authorized committee" means the political committee authorized
18 by a candidate, or by the public official against whom recall charges
19 have been filed, to accept contributions or make expenditures on behalf
20 of the candidate or public official.

21 (3) "Ballot proposition" means any "measure" as defined by RCW
22 29.01.110, or any initiative, recall, or referendum proposition
23 proposed to be submitted to the voters of the state or any municipal
24 corporation, political subdivision, or other voting constituency from
25 and after the time when the proposition has been initially filed with
26 the appropriate election officer of that constituency prior to its
27 circulation for signatures.

28 (4) "Benefit" means a commercial, proprietary, financial, economic,
29 or monetary advantage, or the avoidance of a commercial, proprietary,
30 financial, economic, or monetary disadvantage.

31 (5) "Bona fide political party" means:

32 (a) An organization that has filed a valid certificate of
33 nomination with the secretary of state under chapter 29.24 RCW;

34 (b) The governing body of the state organization of a major
35 political party, as defined in RCW 29.01.090, that is the body
36 authorized by the charter or bylaws of the party to exercise authority
37 on behalf of the state party; or

1 (c) The county central committee or legislative district committee
2 of a major political party. There may be only one legislative district
3 committee for each party in each legislative district.

4 (6) "Depository" means a bank designated by a candidate or
5 political committee pursuant to RCW 42.17.050.

6 (7) "Treasurer" and "deputy treasurer" mean the individuals
7 appointed by a candidate or political committee, pursuant to RCW
8 42.17.050, to perform the duties specified in that section.

9 (8) "Candidate" means any individual who seeks nomination for
10 election or election to public office. An individual seeks nomination
11 or election when he or she first:

12 (a) Receives contributions or makes expenditures or reserves space
13 or facilities with intent to promote his or her candidacy for office;

14 (b) Announces publicly or files for office;

15 (c) Purchases commercial advertising space or broadcast time to
16 promote his or her candidacy; or

17 (d) Gives his or her consent to another person to take on behalf of
18 the individual any of the actions in (a) or (c) of this subsection.

19 (9) "Caucus political committee" means a political committee
20 organized and maintained by the members of a major political party in
21 the state senate or state house of representatives.

22 (10) "Commercial advertiser" means any person who sells the service
23 of communicating messages or producing printed material for broadcast
24 or distribution to the general public or segments of the general public
25 whether through the use of newspapers, magazines, television and radio
26 stations, billboard companies, direct mail advertising companies,
27 printing companies, or otherwise.

28 (11) "Commission" means the agency established under RCW 42.17.350.

29 (12) "Compensation" unless the context requires a narrower meaning,
30 includes payment in any form for real or personal property or services
31 of any kind: PROVIDED, That for the purpose of compliance with RCW
32 42.17.241, the term "compensation" shall not include per diem
33 allowances or other payments made by a governmental entity to reimburse
34 a public official for expenses incurred while the official is engaged
35 in the official business of the governmental entity.

36 (13) "Continuing political committee" means a political committee
37 that is an organization of continuing existence not established in
38 anticipation of any particular election campaign.

39 (14)(a) "Contribution" includes:

1 (i) A loan, gift, deposit, subscription, forgiveness of
2 indebtedness, donation, advance, pledge, payment, transfer of funds
3 between political committees, or anything of value, including personal
4 and professional services for less than full consideration;

5 (ii) An expenditure made by a person in cooperation, consultation,
6 or concert with, or at the request or suggestion of, a candidate, a
7 political committee, or their agents;

8 (iii) The financing by a person of the dissemination, distribution,
9 or republication, in whole or in part, of broadcast, written, graphic,
10 or other form of political advertising prepared by a candidate, a
11 political committee, or its authorized agent;

12 (iv) Sums paid for tickets to fund-raising events such as dinners
13 and parties, except for the actual cost of the consumables furnished at
14 the event.

15 (b) "Contribution" does not include:

16 (i) Standard interest on money deposited in a political committee's
17 account;

18 (ii) Ordinary home hospitality;

19 (iii) A contribution received by a candidate or political committee
20 that is returned to the contributor within five business days of the
21 date on which it is received by the candidate or political committee;

22 (iv) A news item, feature, commentary, or editorial in a regularly
23 scheduled news medium that is of primary interest to the general
24 public, that is in a news medium controlled by a person whose business
25 is that news medium, and that is not controlled by a candidate or a
26 political committee;

27 (v) An internal political communication primarily limited to the
28 members of or contributors to a political party organization or
29 political committee, or to the officers, management staff, or
30 stockholders of a corporation or similar enterprise, or to the members
31 of a labor organization or other membership organization;

32 (vi) The rendering of personal services of the sort commonly
33 performed by volunteer campaign workers, or incidental expenses
34 personally incurred by volunteer campaign workers not in excess of
35 fifty dollars personally paid for by the worker. "Volunteer services,"
36 for the purposes of this section, means services or labor for which the
37 individual is not compensated by any person;

38 (vii) Messages in the form of reader boards, banners, or yard or
39 window signs displayed on a person's own property or property occupied

1 by a person. However, a facility used for such political advertising
2 for which a rental charge is normally made must be reported as an in-
3 kind contribution and counts towards any applicable contribution limit
4 of the person providing the facility;

5 (viii) Legal or accounting services rendered to or on behalf of:

6 (A) A political party or caucus political committee if the person
7 paying for the services is the regular employer of the person rendering
8 such services; or

9 (B) A candidate or an authorized committee if the person paying for
10 the services is the regular employer of the individual rendering the
11 services and if the services are solely for the purpose of ensuring
12 compliance with state election or public disclosure laws.

13 (c) Contributions other than money or its equivalent are deemed to
14 have a monetary value equivalent to the fair market value of the
15 contribution. Services or property or rights furnished at less than
16 their fair market value for the purpose of assisting any candidate or
17 political committee are deemed a contribution. Such a contribution
18 must be reported as an in-kind contribution at its fair market value
19 and counts towards any applicable contribution limit of the provider.

20 (15) "Elected official" means any person elected at a general or
21 special election to any public office, and any person appointed to fill
22 a vacancy in any such office.

23 (16) "Election" includes any primary, general, or special election
24 for public office and any election in which a ballot proposition is
25 submitted to the voters: PROVIDED, That an election in which the
26 qualifications for voting include other than those requirements set
27 forth in Article VI, section 1 (Amendment 63) of the Constitution of
28 the state of Washington shall not be considered an election for
29 purposes of this chapter.

30 (17) "Election campaign" means any campaign in support of or in
31 opposition to a candidate for election to public office and any
32 campaign in support of, or in opposition to, a ballot proposition.

33 (18) "Election cycle" means the period beginning on the first day
34 of December after the date of the last previous general election for
35 the office that the candidate seeks and ending on November 30th after
36 the next election for the office. In the case of a special election to
37 fill a vacancy in an office, "election cycle" means the period
38 beginning on the day the vacancy occurs and ending on November 30th
39 after the special election.

1 (19) "Expenditure" includes a payment, contribution, subscription,
2 distribution, loan, advance, deposit, or gift of money or anything of
3 value, and includes a contract, promise, or agreement, whether or not
4 legally enforceable, to make an expenditure. The term "expenditure"
5 also includes a promise to pay, a payment, or a transfer of anything of
6 value in exchange for goods, services, property, facilities, or
7 anything of value for the purpose of assisting, benefiting, or honoring
8 any public official or candidate, or assisting in furthering or
9 opposing any election campaign. For the purposes of this chapter,
10 agreements to make expenditures, contracts, and promises to pay may be
11 reported as estimated obligations until actual payment is made. The
12 term "expenditure" shall not include the partial or complete repayment
13 by a candidate or political committee of the principal of a loan, the
14 receipt of which loan has been properly reported.

15 (20) "Final report" means the report described as a final report in
16 RCW 42.17.080(2).

17 (21) "General election" for purposes of the limits of RCW 42.17.640
18 means the election that results in the election of a person to a state
19 office. It does not include a primary.

20 (22) "Gift," is as defined in RCW 42.52.010.

21 (23) "Immediate family" includes the spouse, dependent children,
22 and other dependent relatives, if living in the household. For the
23 purposes of RCW 42.17.640 through 42.17.790, "immediate family" means
24 an individual's spouse, and child, stepchild, grandchild, parent,
25 stepparent, grandparent, brother, half brother, sister, or half sister
26 of the individual and the spouse of any such person and a child,
27 stepchild, grandchild, parent, stepparent, grandparent, brother, half
28 brother, sister, or half sister of the individual's spouse and the
29 spouse of any such person.

30 (24) "Independent expenditure" means an expenditure that has each
31 of the following elements:

32 (a) It is made in support of or in opposition to a candidate for
33 office by a person who is not (i) a candidate for that office, (ii) an
34 authorized committee of that candidate for that office, (iii) a person
35 who has received the candidate's encouragement or approval to make the
36 expenditure, if the expenditure pays in whole or in part for political
37 advertising supporting that candidate or promoting the defeat of any
38 other candidate or candidates for that office, or (iv) a person with
39 whom the candidate has collaborated for the purpose of making the

1 expenditure, if the expenditure pays in whole or in part for political
2 advertising supporting that candidate or promoting the defeat of any
3 other candidate or candidates for that office;

4 (b) The expenditure pays in whole or in part for political
5 advertising that either specifically names the candidate supported or
6 opposed, or clearly and beyond any doubt identifies the candidate
7 without using the candidate's name; and

8 (c) The expenditure, alone or in conjunction with another
9 expenditure or other expenditures of the same person in support of or
10 opposition to that candidate, has a value of five hundred dollars or
11 more. A series of expenditures, each of which is under five hundred
12 dollars, constitutes one independent expenditure if their cumulative
13 value is five hundred dollars or more.

14 (25)(a) "Intermediary" means an individual who transmits a
15 contribution to a candidate or committee from another person unless the
16 contribution is from the individual's employer, immediate family as
17 defined for purposes of RCW 42.17.640 through 42.17.790, or an
18 association to which the individual belongs.

19 (b) A treasurer or a candidate is not an intermediary for purposes
20 of the committee that the treasurer or candidate serves.

21 (c) A professional fund-raiser is not an intermediary if the fund-
22 raiser is compensated for fund-raising services at the usual and
23 customary rate.

24 (d) A volunteer hosting a fund-raising event at the individual's
25 home is not an intermediary for purposes of that event.

26 (26) "Legislation" means bills, resolutions, motions, amendments,
27 nominations, and other matters pending or proposed in either house of
28 the state legislature, and includes any other matter that may be the
29 subject of action by either house or any committee of the legislature
30 and all bills and resolutions that, having passed both houses, are
31 pending approval by the governor.

32 (27) "Lobby" and "lobbying" each mean attempting to influence the
33 passage or defeat of any legislation by the legislature of the state of
34 Washington, or the adoption or rejection of any rule, standard, rate,
35 or other legislative enactment of any state agency under the state
36 Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor
37 "lobbying" includes an association's or other organization's act of
38 communicating with the members of that association or organization.

1 (28) "Lobbyist" includes any person who lobbies either in his or
2 her own or another's behalf.

3 (29) "Lobbyist's employer" means the person or persons by whom a
4 lobbyist is employed and all persons by whom he or she is compensated
5 for acting as a lobbyist.

6 (30) "Person" includes an individual, partnership, joint venture,
7 public or private corporation, association, federal, state, or local
8 governmental entity or agency however constituted, candidate,
9 committee, political committee, political party, executive committee
10 thereof, or any other organization or group of persons, however
11 organized.

12 (31) "Person in interest" means the person who is the subject of a
13 record or any representative designated by that person, except that if
14 that person is under a legal disability, the term "person in interest"
15 means and includes the parent or duly appointed legal representative.

16 (32) "Political advertising" includes any advertising displays,
17 newspaper ads, billboards, signs, brochures, articles, tabloids,
18 flyers, letters, radio or television presentations, or other means of
19 mass communication, used for the purpose of appealing, directly or
20 indirectly, for votes or for financial or other support in any election
21 campaign.

22 (33) "Political committee" means any person (except a candidate or
23 an individual dealing with his or her own funds or property) having the
24 expectation of receiving contributions or making expenditures in
25 support of, or opposition to, any candidate or any ballot proposition.

26 (34) "Primary" for purposes of the limits in RCW 42.17.640 means
27 the (~~procedure for nominating~~) election that nominates a candidate to
28 state office (~~under chapter 29.18 or 29.21 RCW or any other primary~~
29 ~~for an election that uses, in large measure, the procedures established~~
30 ~~in chapter 29.18 or 29.21 RCW~~)).

31 (35) "Public office" means any federal, state, county, city, town,
32 school district, port district, special district, or other state
33 political subdivision elective office.

34 (36) "Public record" includes any writing containing information
35 relating to the conduct of government or the performance of any
36 governmental or proprietary function prepared, owned, used, or retained
37 by any state or local agency regardless of physical form or
38 characteristics. For the office of the secretary of the senate and the
39 office of the chief clerk of the house of representatives, public

1 records means legislative records as defined in RCW 40.14.100 and also
2 means the following: All budget and financial records; personnel
3 leave, travel, and payroll records; records of legislative sessions;
4 reports submitted to the legislature; and any other record designated
5 a public record by any official action of the senate or the house of
6 representatives.

7 (37) "Recall campaign" means the period of time beginning on the
8 date of the filing of recall charges under RCW 29.82.015 and ending
9 thirty days after the recall election.

10 (38) "State legislative office" means the office of a member of the
11 state house of representatives or the office of a member of the state
12 senate.

13 (39) "State office" means state legislative office or the office of
14 governor, lieutenant governor, secretary of state, attorney general,
15 commissioner of public lands, insurance commissioner, superintendent of
16 public instruction, state auditor, or state treasurer.

17 (40) "State official" means a person who holds a state office.

18 (41) "Surplus funds" mean, in the case of a political committee or
19 candidate, the balance of contributions that remain in the possession
20 or control of that committee or candidate subsequent to the election
21 for which the contributions were received, and that are in excess of
22 the amount necessary to pay remaining debts incurred by the committee
23 or candidate prior to that election. In the case of a continuing
24 political committee, "surplus funds" mean those contributions remaining
25 in the possession or control of the committee that are in excess of the
26 amount necessary to pay all remaining debts when it makes its final
27 report under RCW 42.17.065.

28 (42) "Writing" means handwriting, typewriting, printing,
29 photostating, photographing, and every other means of recording any
30 form of communication or representation, including, but not limited to,
31 letters, words, pictures, sounds, or symbols, or combination thereof,
32 and all papers, maps, magnetic or paper tapes, photographic films and
33 prints, motion picture, film and video recordings, magnetic or punched
34 cards, discs, drums, diskettes, sound recordings, and other documents
35 including existing data compilations from which information may be
36 obtained or translated.

37 As used in this chapter, the singular shall take the plural and any
38 gender, the other, as the context requires.

1 NEW SECTION. **Sec. 31.** Nothing in this act may be construed by the
2 secretary of state or a county auditor to mean that a voter may cast
3 more than one vote for candidates for a given office.

4 NEW SECTION. **Sec. 32.** (1) The legislature recognizes that this
5 act significantly changes the way in which a primary for partisan
6 office shall be conducted, and thus it intends to ease the transition
7 and allow any primary held prior to July 1, 2002, to be implemented
8 with existing systems currently in use by each county auditor.

9 (2) Notwithstanding any language to the contrary found elsewhere in
10 this act or in existing statute each county auditor may design a ballot
11 and utilize procedures other than those detailed in this act when
12 conducting a partisan primary provided that the design of the ballot
13 and the procedures are specifically allowed by a rule adopted by the
14 secretary of state under chapter 34.05 RCW, and that the following
15 criteria are met:

16 (a) A voter shall have the option to affiliate with a major
17 political party or to be undeclared;

18 (b) Voter privacy, including selection of party affiliation, is
19 preserved;

20 (c) A voter who affiliates with a major political party may only
21 cast votes for partisan office for candidates that indicated that
22 same-party affiliation when filing a declaration of candidacy, and any
23 votes cast for a candidate that indicated a different party affiliation
24 when filing a declaration of candidacy shall not be tabulated and
25 reported;

26 (d) A voter who chooses to be undeclared may vote for any candidate
27 regardless of the candidate's political party designation, and votes
28 cast by such voter shall be tabulated and reported; and

29 (e) Votes cast for a candidate by voters who choose to affiliate
30 with a major political party shall be reported separately from votes
31 cast for the same candidate by voters who choose to be undeclared.

32 (3) This section expires July 1, 2002.

33 NEW SECTION. **Sec. 33.** The following acts or parts of acts are
34 each repealed:

35 (1) RCW 29.18.010 (Application of chapter) and 1990 c 59 s 78 &
36 1965 c 9 s 29.18.010;

1 (2) RCW 29.18.120 (General election laws govern primaries) and 1990
2 c 59 s 87, 1971 ex.s. c 112 s 1, & 1965 c 9 s 29.18.120;

3 (3) RCW 29.18.150 (Vacancies on major party ticket caused by no
4 filing--How filled) and 1990 c 59 s 102, 1977 ex.s. c 329 s 12, & 1965
5 c 9 s 29.18.150;

6 (4) RCW 29.18.160 (Vacancies by death or disqualification--How
7 filled--Correcting ballots and labels--Counting votes already cast) and
8 2001 c 46 s 4 & 1977 ex.s. c 329 s 13;

9 (5) RCW 29.18.200 (Blanket primary authorized) and 1990 c 59 s 88
10 & 1965 c 9 s 29.18.200; and

11 (6) RCW 29.30.040 (Primaries--Rotating names of candidates) and
12 1990 c 59 s 94, 1977 ex.s. c 361 s 54, & 1965 c 9 s 29.30.040.

13 NEW SECTION. **Sec. 34.** Sections 1, 4, 5, and 8 through 13 of this
14 act constitute a new chapter in Title 29 RCW.

15 NEW SECTION. **Sec. 35.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 36.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 immediately.

--- END ---